

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DONALD W. PETERSEN, WARREN O. HAGGARD,
DONALD A. RANDOLPH and CARY P. HAGAN

Application No. 09/327,761

MAILED

JAN 03 2006

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on November 22, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On November 21, 2005, appellants filed a reply brief in response to the Examiner's answer mailed September 20, 2005. However, there is no indication on the record whether or not the examiner has responded to the reply brief. Section § 1208.03 of

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the Manual of Patent Examining Procedure (8th ed., Aug. 2001)
states:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02 [emphasis added].


The examiner should also consider the timeliness of the reply brief.

Accordingly, it is

ORDERED that this application be returned to the examiner: 1) for proper response to the reply brief filed November 21, 2005; and 2) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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